

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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|-------------------------------|---|----------------------|
| GMAC REAL ESTATE, LCC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | No. 07 C 6803 |
| |) | |
| GARROW REAL ESTATE, LLC |) | Judge Manning |
| d/b/a GARROW GMAC REAL ESTATE |) | |
| and ROBERT GARROW, |) | Magistrate Judge Cox |
| |) | |
| Defendants. |) | |

**PLAINTIFF'S MOTION TO AMEND JUDGMENT TO INCLUDE ATTORNEY'S
FEES AND TO VOLUNTARILY DISMISS DEFENDANT ROBERT GARROW**

Plaintiff GMAC Real Estate, LLC ("GMAC"), by its attorneys, Williams Montgomery & John Ltd., pursuant to Federal Code of Civil Procedure 41, 54, and 55, move this Court to amend its Order of Judgment to include GMAC's attorney's fees and to dismiss Defendant Robert Garrow ("Garrow") voluntarily and without prejudice. In support, GMAC states:

1. On December 4, 2007, GMAC filed an Emergency Motion for Temporary Restraining Order and a four count Verified Complaint for Injunctive and Other Relief against Garrow and Garrow Real Estate, LLC d/b/a Garrow GMAC Read Estate ("Garrow LLC").

2. On January 29, 2008, this Court entered an Order of Judgment against Garrow LLC. The Court also allowed GMAC to file a motion for attorney's fees and to voluntarily dismiss Garrow, if GMAC so decided. (See minute order attached hereto as Ex. A).

3. GMAC is entitled to all attorney fees and costs pursuant to the Franchise Agreement entered into between GMAC and Garrow LLC. As testified to in the Verified Complaint, paragraph 19(c) of the Franchise Agreement grants GMAC the right to recover its

attorney's fees and costs incurred in connection with enforcing its post-termination rights against Garrow LLC. (Ex. B – Verified Complaint, para. 13).

4. To date, GMAC's attorney's fees and costs to enforce the terms of the Franchise Agreement post-termination and to obtain a judgment against Garrow LLC are \$15,139.48.

5. Attached hereto as Exhibit C is the Affidavit of Kathy McIntyre, Williams Montgomery & John's Billing Department manager. According to Ms. McIntyre's Affidavit, Williams Montgomery & John has invoiced GMAC \$15,139.48 in fees and costs in this matter. These fees and costs were invoiced at WMJ's standard rates for similar matters.

6. GMAC requests the Court amend the previously entered Order of Judgment to include \$15,139.48 in attorney's fees incurred by GMAC in this matter. Attached hereto as Exhibit D, is a proposed Amended Order of Judgment.

7. As noted in open court on January 29, 2008, after this lawsuit was filed, Garrow filed for bankruptcy individually and has failed to answer or otherwise plead. As such, GMAC voluntarily dismisses Garrow from this action without prejudice pursuant to Federal Rule of Civil Procedure 41.

WHEREFORE, Plaintiff prays that this Court (1) modify the Judgment Order entered on January 29, 2008 to include an award of attorney's fees and costs in the amount of \$15,139.48; and (2) grant GMAC's request to voluntarily dismiss Defendant Robert Garrow without prejudice.

Respectfully submitted,

By: /s/ Eric R. Lifvendahl
One of the Attorneys for Plaintiff

Eric R. Lifvendahl
Thomas C. Koessl
Williams Montgomery & John Ltd.
20 North Wacker Drive, Suite 2100
Chicago, IL 60606
(312) 442-3200

Document #: 765478